

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

INSULATE SB, INC., a California  
Corporation, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

ABRASIVE PRODUCTS &  
EQUIPMENT, et al.,

Defendants.

Civil Action No. 1:13-cv-01609-YK  
(Chief Judge Yvette Kane)

Filed Electronically

**PLAINTIFF'S CONDITIONAL STATEMENT OF NON-OPPOSITION  
TO DEFENDANTS' EXPEDITED MOTION FOR  
AN ENLARGEMENT OF TIME TO RESPOND TO THE COMPLAINT**

Plaintiff Insulate SB, Inc., through its undersigned counsel, hereby conditionally does not oppose Defendants' Expedited Motion for an Enlargement of Time to Respond to the Complaint [Dkt. No. 134] to the extent an order granting such an extension will not delay a ruling on Plaintiff's motion for expedited discovery and its motion for preliminary injunction.

Plaintiff filed its Complaint, sought expedited discovery, and moved for a preliminary injunction, and this Court stayed briefing on the preliminary injunction motion so that Plaintiff would have the chance to obtain critical evidence in support of its preliminary injunction motion. Graco responded by arguing that the Court should not rule on the discovery motion nor the preliminary injunction motion until it ruled on

Defendants' motions to dismiss. (Graco's Opp. to Plaintiff's Mot. for Expedited Discovery, Dkt. No. 46, at 16-18). This was Graco's principal basis to oppose expedited discovery.

Then rather than expediently prepare and file its motion to dismiss Graco moved to transfer venue to Graco's hometown, on the basis that the Minnesota court would be a more efficient forum. Now, as its final move, Graco asks this Court to extend the deadline for motions to dismiss until after it rules on the motion to transfer venue. If Graco has its way, Plaintiff will be (1) deprived of the opportunity to expeditiously gain access to the critical evidence produced in the New Jersey litigation, which will likely greatly bolster its preliminary injunction motion and class certification; (2) deprived of an expeditious ruling on its preliminary injunction motion; and (3) be forced to litigate this case in Minnesota, 1,200 miles from the key evidence and witnesses just next door in New Jersey.

All this being said, delaying responses to the initial Complaint until after Plaintiff has gained access to the critical evidence sealed in New Jersey does make sense, but such delay should not be used a vehicle to prevent an expeditious ruling on the motion for preliminary injunction.

Respectfully submitted,

Date: August 9, 2013

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**Certificate of Service in Support of**

**(1) Plaintiff's Opposition to Defendants' Expedited Motion For an Enlargement of Time to Respond to the Complaint.**

I hereby certify that on August 9, 2013, the foregoing Opposition was filed electronically with the Clerk of the Court using CM/ECF. I further certify that the foregoing Opposition is being served this day on all Counsel of Record via transmission of Notices of Electronic Filing generated by CM/ECF.

Dated: August 9, 2013

s/ Christopher A. Nedeau

Christopher Nedeau (*Pro Hac Vice*)  
NOSSAMAN LLP

*Counsel for Plaintiff Insulate SB, Inc.*